



Mortgage Loans: Rights of First Refusal to Provide Financing

Prepared by the Michigan Financial Institutions Bureau
Policy and Legislation Division

What are Rights of First Refusal to Provide Financing?

If you're shopping for a mortgage loan, be wary of a document that purports to give your lender a right of first refusal to handle a future refinancing of your loan. If you sign such a document and if it is recorded with the register of deeds, a "right of first refusal to provide financing" can delay a sale of your home or can hinder your ability to refinance with a different lender.

This type of document is unlawful when used by licensed mortgage companies because it creates an exclusive business agreement. Michigan's Mortgage Brokers, Lenders and Servicers Licensing Act prohibits a regulated mortgage company from requiring a prospective borrower to deal exclusively with that company in regard to a mortgage loan application.

My Lender Wants Me to Sign a Right of First Refusal to Provide Financing Document. What Should I Do?

If you encounter a mortgage broker or lender that wants you to sign a right of first refusal to provide additional financing, keep the following in mind:

- You need not sign the agreement.
- You may want to consult a lawyer.
- You may want to file a complaint with the Bureau.

I Signed a Right of First Refusal to Provide Financing Document on My Last Loan. What Can I Do Now?

If you have already signed a "right of first refusal to provide additional financing" and the document has been recorded with the register of deeds, you should first contact the lender and demand a release. If the lender refuses to issue the release, you can file a complaint with the Financial Institutions Bureau and/or file a lawsuit against the lender. Complaint forms can be obtained by calling (517) 373-3420 or by downloading a copy from the Bureau's Internet site at <http://www.cis.state.mi.us/fib/>. If you wish to sue the lender for release of the lien, you should seek legal assistance from a licensed attorney.

If the lender that recorded the "right of first refusal" document is no longer in business, please call us at (517) 373-3470 to find out whether it has changed its name or location or merged with another lender. (If the lender is truly out of business, you may need to file a lawsuit in the Circuit Court of the County where the property is located to release the lien.)

The Lawyer Referral Service of the State Bar of Michigan can help you identify an attorney in your area. Phone 1-800-968-0738.